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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/135,024	08/17/1998	MAKI KATO	05905.0056	8790

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EXAMINER

GOOD JOHNSON, MOTILEWA

ART UNIT PAPER NUMBER

2672

DATE MAILED: 08/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/135,024

Applicant(s)

KATO ET AL.

Examiner

Motilewa A. Good-Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 17-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 17.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is in response to the following communications: Preliminary Amendment A, filed on 08/17/1998; IDS, paper # 7, filed on 07/09/1999; IDS, paper #8, filed on 09/01/1999; Election filed on 09/20/2000; Amendment B, filed on 02/08/2001; Amendment C, filed on 08/23/2001; Amendment D, filed on 02/06/2002; Amendment E, filed on 05/02/2002.
2. Claims 17-28 are pending in this application. Claims 1-3 and 15-16 have been canceled. Claims 17 and 19 have been amended. New claims 21-28 have been added.
3. The present title of this application is "Data Processing Apparatus and Processing Method and Medium Therefor" (as originally filed).

### ***Claim Rejections - 35 USC § 101***

4. Claims 17-28 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific asserted utility or a well established utility.

Claims 17-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to an apparatus that merely manipulates data and is an abstract idea, which is non-statutory subject matter.

Claims that are noted above as being rejected but that are not specifically cited below are rejected based on their dependency on rejected independent claims as

incorporating the errors of those claims and not imparting any features leading to statutory subject matter.

With respect to independent claim 17, the claim recites "a data processing apparatus . . . comprising: a reference polygon; and component polygons . . . wherein the processor stores motion data that is capable of executing a motion for a movement of a game character model . . ." The disclosed invention has a practical application, e.g., the placement of polygons in a three dimensional space. The disclosed invention is within the technological arts, i.e., the disclosed invention uses a computer processor. However, the steps do not recite any post-computer process activity, i.e., no independent physical acts, and the steps of the method do not recite any pre-computer process activity, i.e., no manipulation of data representing physical objects or activities.

Therefore, in order to determine if the process is statutory, one must determine what the computer does to achieve a practical application. A process that merely manipulates an abstract idea is non-statutory despite the fact that it might inherently have some usefulness. For such subject matter to be statutory, the claimed process must be limited to a practical application of the abstract idea. Examiner finds no limitation to a practical application for the claimed method. As an illustration of the lack of limitation to a particular, practical application, the apparatus claimed by Applicant could be accomplished by mental steps of one of ordinary skill in the art aided by pencil and paper. A process that consists solely of the manipulation of an abstract idea is not concrete or tangible. See *In re Warmerdam*, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed. Cir.1994). See also *Schrader*, 22 F.3d at 295, 30 USPQ2d at 1459.

Claim 17 is also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto et al., U.S. Patent Number 6,241,610, "Three-Dimensional Image Processing System having Dynamically Changing Character Polygon Number", class 463/33.

As per independent claim 17, "a data processing apparatus having a processor for a game character . . . comprising a reference polygon; and component polygons, wherein no articulating components are included between said reference polygon and said component polygons, where the processor stores motion data that is capable of executing a motion for a movement of a game character model . . . based on a position information of said reference polygon in the motion data . . ." Miyamoto et al. discloses in col. 2, et seq.

However, it is noted that Miyamoto et al. fails to disclose a reference polygon and component polygons per se. Miyamoto discloses drawing a character with a number of

polygons and the face having a predetermined number of polygons, col. 3, lines 30-35. It would have been obvious to one of ordinary skill in the art at the time of the invention that the character disclosed in Miyamoto et al. said face component constitutes a reference polygon, and other facial features in said face constitute said component polygons and the components, e.g. eyes, nose, mouth, would be placed in three dimensional space based on the position of the reference polygon, said face, without computing articulating components.

With respect to dependent claim 18, “. . . processor alienates said component polygons from said reference polygons.” Miyamoto et al. discloses in col. 3, lines 9-54.

As per independent claim 19, it is rejected based upon similar rational as above independent claim 17.

With respect to dependent claim 20, “a medium on which is stored a program for causing a computer to function as a processor . . . ” Miyamoto et al. discloses in col. 2, lines 12-13 and in col. 2, lines 41-50.

With respect to dependent claim 21, “wherein the motion data include articulating components for the movement . . . ” Miyamoto discloses in col. 14, lines 32-36, the number of polygons to form a moving character is controlled as a function of character speed and further discloses in col. 7, lines 28-30 direction of movement of a controlled character in four directions.

With respect to dependent claim 22, “wherein the reference polygon represents a torso of the game character.” Miyamoto discloses in col. 14, lines 35-36, using polygon

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to form a moving object character. Thus, the character of Miyamoto would have a torso to determine the characters body components.

With respect to dependent claim 23, "wherein one of the component polygons represents a head." Miyamoto discloses in col. 3, lines 44-45, polygons are used to draw the face.

With respect to dependent claim 24, ". . . a plurality of reference polygons." Miyamoto discloses in col. 14, lines 56-57, the character Mario is drawn with a predetermined number of polygons.

With respect to dependent claims 25-28, they are rejected based upon similar rational as above independent claims 21-24.

### ***Response to Amendment***

Applicant argues that Miyamoto discloses reducing the number of polygon in less noticeable areas rather than executing the movement of the game character using a reference polygon and component polygons. Miyamoto disclose sin col. 2, lines 20-32, moving direction of the objects in three-dimensional space based on an inclination amount, moving amount determining hardware and software which determine moving amount of the object, and further discloses position determining hardware and software which determines object position in the three-dimensional space in accordance with the moving direction and moving amount. Applicant further argues that Miyamoto fails to teach or suggest wherein the processor directly places component polygons in three

dimensional space based on the position information without articulating components. Miyamoto discloses in col. 2, lines 9-17, an image processing system that generates image data for displaying an object in three-dimensional space on the display according to a stored program.

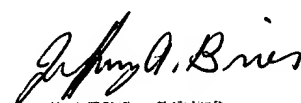
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Motilewa A. Good-Johnson whose telephone number is (703) 305-3939. The examiner can normally be reached on Monday - Friday 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Razavi can be reached on (703) 305-4713. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

Motilewa A. Good-Johnson  
Examiner  
Art Unit 2672

mgj  
August 6, 2002

  
JEFFREY A. BRIES  
PRIMARY EXAMINER



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